

# EXHIBIT 2

**Marland, Lisa**

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**From:** Fuchs, Douglas <DFuchs@gibsondunn.com>  
**Sent:** Tuesday, March 31, 2020 12:48 AM  
**To:** Coe-Odess, Matt  
**Subject:** FW: USC Document/Protective Order

**Douglas Fuchs**

**GIBSON DUNN**

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**From:** Fuchs, Douglas  
**Sent:** Monday, March 30, 2020 11:58 AM  
**To:** Kendall, Michael <michael.kendall@whitecase.com>; Fuller, Anthony <anthony.fuller@hoganlovells.com>  
**Cc:** Malkiel, Yakov <yakov.malkiel@whitecase.com>; Tomback, Andrew <andrew.tomback@whitecase.com>  
**Subject:** RE: USC Document/Protective Order

Mike, you are mistaken. Paragraph 13 only gives you two options. You can ask for USC's written permission to file a document, which you seem to have tried to do here, and USC has declined. In these circumstances, the protective order requires that you file the document under seal. It does not allow you to ask the court for permission to *not* file the document under seal.

The language is clear on its face:

Except as otherwise ordered by this Court or the District Court, any Party wishing to file any Protected USC Material other than as stated in paragraph 16 *infra* must either (1) obtain written permission from USC to file such material in the public record, or (2) move the Court for leave to file the Protected USC Material under seal pursuant to Local Rule 7.2.

What you are attempting to do is the exact opposite of what the protective order provides for. Rather than move the Court for leave to file the document under seal as required now that USC has declined to give its permission file the document in the public record, you incorrectly believe you can somehow move the court *not* to file the document under seal. If you proceed in this way you will be in direct violation of the protective order. This reinforces USC's concerns made clear in its recent briefing in connection with Mr. Zangrillo's Rule 17 subpoena, that the protective orders are not sufficient to safeguard USC's information.

Please make clear to the Court USC's position should you proceed in this improper fashion. Please do not file the document in the public record until this dispute is resolved. In addition, please give USC adequate time to respond to your improper request to the Court should you proceed. USC reserves all rights.

**Douglas Fuchs**

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**From:** Kendall, Michael <[michael.kendall@whitecase.com](mailto:michael.kendall@whitecase.com)>  
**Sent:** Monday, March 30, 2020 10:55 AM  
**To:** Fuchs, Douglas <[DFuchs@gibsondunn.com](mailto:DFuchs@gibsondunn.com)>; Fuller, Anthony <[anthony.fuller@hoganlovells.com](mailto:anthony.fuller@hoganlovells.com)>  
**Cc:** Malkiel, Yakov <[yakov.malkiel@whitecase.com](mailto:yakov.malkiel@whitecase.com)>; Tomback, Andrew <[andrew.tomback@whitecase.com](mailto:andrew.tomback@whitecase.com)>  
**Subject:** RE: USC Document/Protective Order

[External Email]

We have reviewed par. 13. It allows us to ask Judge Gorton for permission to file without seal. We will copy you so you can present USC's position. We hope to file tonight or tomorrow.

**Michael Kendall** | Partner  
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**From:** Fuchs, Douglas <[DFuchs@gibsondunn.com](mailto:DFuchs@gibsondunn.com)>  
**Sent:** Monday, March 30, 2020 12:53 PM  
**To:** Kendall, Michael <[michael.kendall@whitecase.com](mailto:michael.kendall@whitecase.com)>; Fuller, Anthony <[anthony.fuller@hoganlovells.com](mailto:anthony.fuller@hoganlovells.com)>  
**Cc:** Malkiel, Yakov <[yakov.malkiel@whitecase.com](mailto:yakov.malkiel@whitecase.com)>; Tomback, Andrew <[andrew.tomback@whitecase.com](mailto:andrew.tomback@whitecase.com)>  
**Subject:** RE: USC Document/Protective Order

Mike, please file the document under seal. This document is covered by paragraph 2 of the protective order that you agreed to, which is not limited to student or donor privacy.

**Douglas Fuchs**

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**From:** Kendall, Michael <[michael.kendall@whitecase.com](mailto:michael.kendall@whitecase.com)>  
**Sent:** Monday, March 30, 2020 9:28 AM  
**To:** Fuchs, Douglas <[DFuchs@gibsondunn.com](mailto:DFuchs@gibsondunn.com)>; Fuller, Anthony <[anthony.fuller@hoganlovells.com](mailto:anthony.fuller@hoganlovells.com)>  
**Cc:** Malkiel, Yakov <[yakov.malkiel@whitecase.com](mailto:yakov.malkiel@whitecase.com)>; Tomback, Andrew <[andrew.tomback@whitecase.com](mailto:andrew.tomback@whitecase.com)>  
**Subject:** RE: USC Document/Protective Order

[External Email]

There is a presumption in the District of Massachusetts against filing under seal. I do not know of a good faith basis that warrants filing this under seal. There is no student or donor privacy rights being protected. If you insist that we file this under seal, we will tell the Judge it is done only at USC's insistence.

**Michael Kendall** | Partner  
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**From:** Fuchs, Douglas <[DFuchs@gibsondunn.com](mailto:DFuchs@gibsondunn.com)>  
**Sent:** Monday, March 30, 2020 12:15 PM

**To:** Kendall, Michael <[michael.kendall@whitecase.com](mailto:michael.kendall@whitecase.com)>; Fuller, Anthony <[anthony.fuller@hoganlovells.com](mailto:anthony.fuller@hoganlovells.com)>  
**Cc:** Malkiel, Yakov <[yakov.malkiel@whitecase.com](mailto:yakov.malkiel@whitecase.com)>; Tomback, Andrew <[andrew.tomback@whitecase.com](mailto:andrew.tomback@whitecase.com)>  
**Subject:** RE: USC Document/Protective Order

Mike, thanks for your email. The document needs to be filed under seal pursuant to paragraph 13 of the protective order between USC and your client. By the way, what motion is this document being filed with? Thanks

**Douglas Fuchs**

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**From:** Kendall, Michael <[michael.kendall@whitecase.com](mailto:michael.kendall@whitecase.com)>  
**Sent:** Monday, March 30, 2020 9:00 AM  
**To:** Fuchs, Douglas <[DFuchs@gibsondunn.com](mailto:DFuchs@gibsondunn.com)>; Fuller, Anthony <[anthony.fuller@hoganlovells.com](mailto:anthony.fuller@hoganlovells.com)>  
**Cc:** Malkiel, Yakov <[yakov.malkiel@whitecase.com](mailto:yakov.malkiel@whitecase.com)>; Tomback, Andrew <[andrew.tomback@whitecase.com](mailto:andrew.tomback@whitecase.com)>  
**Subject:** USC Document/Protective Order

[External Email]  
Doug and Tony,

We plan to include the attached email chain with a memorandum we will file in support of our motions. It does not have any information identifying a student or donor, so we do not think it needs to be redacted or filed under seal. Please let us know if you want to discuss it. We may file as early as late afternoon.

Mike

**Michael Kendall** | Partner  
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